

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**DALE MAISANO,**

**Plaintiff,**

**v.**

**UNITED STATES ATTORNEY GENERAL  
ERIC HEMPTON HOLDER, JR., *et al.*,**

**Defendants.**

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**Case No. 3:13-cv-0778**

**Judge Trauger**

**ORDER**

Before the court is plaintiff Dale Maisano's Notice of Appeal (ECF No. 7) of the order dismissing this case without prejudice. His notice is not accompanied either by the \$455 appellate filing fee or a motion to appeal *in forma pauperis*.

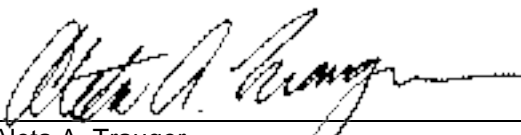
As noted in the order of dismissal (ECF No. 3), the plaintiff has filed so many frivolous cases while incarcerated that he is under a restraining order entered by the United States District Court for the District of Arizona. This court dismissed the present action without prejudice for failure to comply strictly with the terms of the Restraining Order, without addressing the plaintiff's failure to submit the filing fee or his claim to be in imminent danger of serious physical injury.

The court now **CERTIFIES** that the appeal of this matter is not in good faith and therefore that the plaintiff would not be permitted by this court to pursue his appeal *in forma pauperis* even if he had submitted a motion to do so. The court further finds that the plaintiff's complaints about a sunburn do not amount to a legitimate claim of imminent danger of serious physical injury.

Pursuant to Rule 24(a)(5), the plaintiff may nonetheless file, within 30 days after service of this order, a motion with the Sixth Circuit Court of Appeals for leave to proceed as a pauper on appeal. *Owens v. Keeling*, 461 F.3d 763, 775 (6th Cir. 2006); *Callihan v. Schneider*, 178 F.3d 800, 803 (6th Cir. 1999). The plaintiff is notified that if he does not file a motion in the Sixth Circuit Court of Appeals within 30 days of receiving notice of this order and subsequently obtain leave to pursue his appeal as a pauper, or pay the required appellate filing fee of \$455.00 within this same time period, the appeal may be dismissed for want of prosecution. *Callihan*, 178 F.3d at 804.

The Clerk of Court is **DIRECTED** to forward a copy of this Order to the Sixth Circuit Court of Appeals.

It is so **ORDERED**.



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Aleta A. Trauger  
United States District Judge